IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19661 of 2004

Between:

Smt.Y.Prabhavathamma, w/o Ramamurthy Reddy, Hindu, aged 49, Occ: Agricutlure, r/o Chandragiri Village & Mandal, Chittoor District.

..... PETITIONER

AND

1 The Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad.
2 The Joint Collector, Chittoor District, Chittoor.
3 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly in the nature of writ of certiorari to call for the records relating to the 1st respondent bearing Commissioner, Appeals Proc.No.BCW.2/856/2000, dated 31-8-2004 in confirming the orders of the 2nd respondent bearing No.E4/13886/99, dated 4-11-2000 in canceling the "D" form patta granted in favour of the petitioner bearing S.Nos.1486/7, 1486/8, 1487/2, 1487/3, 1498/1, and 1498/2 of Chandragiri Village and Mandal as illegal and arbitrary and in consequence thereof to set aside the orders of the 2nd respondent bearing No.E4/13886/99, dated 4-11-2000.

Counsel for the Petitioner: MR.V.V.NARASIMHA RAO

Counsel for the Respondents: Govt. Pleader for REVENUE

The Court made the following:

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Oral Order:

Petitioner invoked the Certiorari jurisdiction of this Court for calling the records from the 1st respondent in appeal Proceedings No.BCW/2/856/2000 dated 31-08-2004 wherein he confirmed the order of the Joint Collector, canceling the D-Form Patta granted in favour of the petitioner in proceedings E.4/1388/99 dated 04-11-2000.

Petitioner was assigned Ac.3.08 cts. of land in various survey numbers i.e. 1486/7; 1486/8; 1487/2; 1487/3; 1498/1 and 1498/2 of Chandragiri village vide DKT No.66/4/97 dated 30-01-1988. On a representation made by Smt.Gangulamma with regard to dispute in Sy.No.1486/8, the matter was referred to the MRO, who inspected the lands and sent a report to the Collector. In the report it is stated that the lands originally assigned in favour of Nagaiah, who is the husband of Smt. Gangulamma vide DKT No.11514/83, and he is cultivating the same on the date of said assignment. It is also reported that Nagaiah borrowed a sum of Rs.5,000/- from the husband of the petitioner by pledging the patta land. Taking advantage of the same, petitioner managed to get assignment in her favour, though she is not eligible for the same, by canceling the patta granted in favour of Nagayya. In view of the same, the Joint Collector suo motu entertained revision and issued a show cause notice why the assignment made in favour of the petitioner shall not be cancelled, since the said assignment was irregular, and petitioner is not eligible to be assigned as she is not a land landless poor person. Petitioner filed her objections to the said show cause notice stating that she will not have any right in the property owned by her husband except for maintenance. Merely because husband possessing Ac.4.20 cts. of land cannot be said that the wife is not eligible for assignment, as she is not entitled any share in the property owned by her husband. The Joint Collector after considering the explanation so offered by the petitioner cancelled the assigned

holding that since the petitioner's husband is having Ac.4.20 cts. of land on the relevant date of assignment and cancellation of assignment made in favour of Nagayya is irregular. Aggrieved by the same petitioner filed an appeal before the commissioner. The Commissioner after going through the entire records held that the very assignment made in favour of the petitioner is irregular, as she is not eligible for assignment of land. As per the assignment rules there is no bar for initiation of proceedings when it is noticed that the very assignment itself is irregular and accordingly confirmed the order passed by the Joint Collector.

Learned Counsel for the petitioner now contends that on the date when the petitioner assigned the lands, her husband was not having any land. Therefore, she is entitled for assignment.

In the objections filed before the Joint Collector petitioner has admitted that her husband is having Ac.4.20 cts. of land, but stated that being a wife she cannot claim any share in the said property. Therefore, her assignment cannot be cancelled. As per the assignment policy, the assigned family should not have more than five acres of land including the assigned land.

In view of the same, no infirmity is discernible to the order passed by the Joint Collector as confirmed by the Commissioner for exercising Certiorari jurisdiction.

The writ petition fails and it is accordingly dismissed. No costs.

_____ A.GOPAL REDDY, J.

27-10-2004

Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad.
2 The Joint Collector, Chittoor District, Chittoor.
3 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District.

4 Two CCs to the Govt. Pleader for Revenue, High Court Buildings,

Hyderabad (OUT)

5.Two CD copies.